

**RECEIVED  
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AUG 18 2006

Patent  
Attorney Docket No. 64118.000192  
Customer No. 21967

**THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:	)	
	)	
TEITELBAUM <i>et al.</i>	)	Group Art Unit: Unassigned
	)	
Serial No.: 10/534,055	)	Examiner: Unassigned
	)	
Filed: May 6, 2005	)	Confirmation No. 2702
	)	
Title: TRANSPEDICULAR INTERVERTEBRAL	)	
DISK ACCESS METHODS AND DEVICES	)	

**MAIL STOP PETITION**  
Commissioner for Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO REVIVE UNINTENTIONAL ABANDONMENT**

Under the authority of 37 C.F.R. §1.137(b), Applicants respectfully petition the U.S. Patent and Trademark Office (PTO) to revive improper abandonment of the above-captioned application due to PTO's error.

Applicants timely responded to the Decision on Petition Under 37 C.F.R. §1.47(a) received by Hunton and Williams LLC, on May 10, 2006 (no mailing date was on correspondence) by filing a Renewed Petition Under 37 C.F.R. §1.47(a) on June 6, 2006, via electronic filing. Copies of the complete filing, including the Acknowledgement of Receipt, are enclosed for your convenience.

Applicants believe that no additional fees are due for filing this petition. In the event any additional fees are required, the Commissioner is authorized to charge all required fees, under 37



UNITED STATES PATENT AND TRADEMARK OFFICE

PAO;TMM;RAK

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

21967  
HUNTON & WILLIAMS LLP  
Intellectual Property Department  
1900 K Street, N.W., Suite 1200  
Washington, DC 20006-1109

64118.192

MAY 10 2006

Hunton &amp; Williams LLP

7047

BGR

5-12-06

DOCKETED

In re Application of  
TEITELBAUM *et al*  
U.S. Application No.: 10/534,055  
PCT No.: PCT/US03/09285  
Int. Filing Date: 25 March 2003  
Priority Date: None  
Docket No.: 64118.000192  
For: TRANSPEDICULAR  
INTERVERTEBRAL DISK ACCESS  
METHODS AND DEVICES

DECISION ON  
PETITION  
UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47(a)" filed 23 November 2005.

### BACKGROUND

On 25 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions available.

On 23 November 2005, applicants submitted a response which was accompanied by, *inter alia*, the subject petition and petition fee of \$130.00; the surcharge fee of \$130.00; a two-month extension fee of \$450.00; a declaration executed by six of the seven named inventors; a declaration of Yison Song; and attachments A - C.

### DISCUSSION

Petitioners allege that "nonsigning inventor Frank Nguyen is unavailable" and filed a petition under 37 CFR 1.47(a) as a response to the Form PCT/DO/EO/905.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by

10/534,055

Page 2

the signing joint inventor on his behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the fee for a petition under 37 CFR 1.47 changed to \$200.00 on 08 December 2004. Petitioners submitted a \$130.00 petition fee. The \$70.00 difference will be charged to Deposit Account No. 50-0206 as authorized satisfying item (1).

Regarding item (2), the 37 CFR 1.47(a) applicants submitted evidence filed previously in an earlier U.S. application (10/999,216) showing that a diligent effort was made to locate Mr. Nguyen. A review of this evidence shows that a letter dated 04 April 2005 was sent to the last known address of Mr. Nguyen in Superior, Colorado. This "package was undeliverable and marked Return to Sender." See Atch. A.

However, petitioners also submitted a copy of a letter dated 25 October 2005 in the subject application which was signed as **received by Frank Nguyen at the Colorado address on 01 November 2005**. See Atch. C.

Consequently, petitioners' assertion that Mr. Nguyen cannot be located is in question. Petitioners must determine if the nonsigning inventor still lives in Superior, Colorado. Petitioners may then claim that Mr. Nguyen is refusing to cooperate, but a complete copy of the subject application must be sent to the nonsigning inventor to make this assertion. See § 409.03(d) MPEP.

For these reasons, item (2) of 37 CFR 1.47(a) is not satisfied.

With regard to item (3), the 37 CFR 1.47(a) applicants indicated two possible addresses for the nonsigning inventor. This item should be updated if it is determined that the nonsigning inventor still resides in Colorado.

Concerning item (4), petitioners included a declaration signed by six of the seven joint inventors listed on the international publication. The nonsigning co-inventor's name, residence, post office address and citizenship are typed on the declaration. Nevertheless, the declaration does not meet the requirements of 37 CFR 1.497(a) and (b).

It appears that petitioner submitted one complete declaration for the first inventor and copies of the signing pages for the five other named inventors. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration for five of the named inventors, it is not clear what inventive entity was listed on the declaration signed by each co-inventor. Applicants

10/534,055

Page 3

must submit the complete declaration signed by each co-inventor. For this reason, item (4) of 37 CFR 1.47(a) is not satisfied.

Thus, all of the requirements of 37 CFR 1.47(a) are not yet complete.

**CONCLUSION**

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

  
James Thomson

Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302

## **Record of Telephone Conversation**

**From:** Selina Moore  
**To:** 64118.000192  
**Date:** June 7, 2006  
**Re:** Receipt of Renewed Petition filed via facsimile on June 6, 2006

At approximately 9:15 a.m., I telephoned Mr. James Thompson, Attorney Advisor at the Office of PCT Legal Administration, as an assistant to Bob King, counsel for the Petitioners in this matter, to verify that the petition was transmitted to the proper fax number. Mr. Thompson verified that it was, and also noted that the Office of PCT Legal Administration does not have the capability to send return facsimile acknowledgements. He said the document should be with a clerk in his office, and that he expects to receive it sometime today.

I thanked Mr. Thompson for his assistance and asked that he contact us if anything else would be needed with regard to the granting of this petition.

**HUNTON & WILLIAMS**

600 PEACHTREE STREET, N.E.  
SUITE 4100  
ATLANTA, GA 30309  
TEL 404 - 888 - 4000  
FAX 404 - 888 - 0050

**TO:** NAME: U.S. Patent and Trademark Office  
FAX NO.: MAIL STOP PCT  
PHONE NO.: Office of PCT Legal Administration  
571-273-0459

**PAGES (INCLUDING COVER):** 37

**ORIGINAL TO FOLLOW IN MAIL:** ☐ YES ☒ NO

**FROM:** NAME: Robert A. King, Esq.  
DIRECT DIAL: 404-888-4136

**MESSAGE:** In re Application Of: TEITELBAUM et al. Examiner: Unassigned  
Application No.: 10/584,055 Art Unit: Unassigned  
Filed: May 6, 2003 Docket No.: 64118.000192  
Title: TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES

The following documents are transmitted via facsimile in connection with the above-referenced patent application.

1. Renewed Petition Under 37 C.F.R. 1.47(e) (4 pgs.)
2. Declaration of Robert A. King, Esq., including Attachments 1-2 (12 pgs.)
3. Copies of executed Declarations (20 pgs.)

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT OPERATOR AT 404 - 888 - 4027.

**OPERATOR**

**DATE:** June 6, 2006  
**CLIENT/MATTER NO.:** 64118.000192

This communication is confidential and is intended to be privileged pursuant to the attorney-client privilege and the work-product doctrine. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.

\*\*\* SEND SUCCESSFUL \*\*\*

Job: 264

Pages sent: 37

End time: JUN-06 16:37

Start time: JUN-06 16:28

Doc. pages: 37

To: #1641180000192915712730459

Date: JUN-06 16:28

Job: 264

Name: HUNTON & WILLIAMS  
Fax number: 4048884190  
Time: JUN-06-06 16:37

CONFIRMATION REPORT - MEMORY SEND

AUG 18 2006

**HUNTON &  
WILLIAMS**

600 PEACHTREE STREET, N E  
SUITE 4100  
ATLANTA, GA 30308

TEL 404 • 888 • 4000  
FAX 404 • 602 • 9050

**FAX**

**TO**                    **NAME**  
                         **FIRM**  
  
                         **FAX NO.:**  
                         **PHONE NO.:**  
  
                         **PAGES (INCLUDING COVER):**  
  
                         **ORIGINAL TO FOLLOW IN MAIL:**  
  
**FROM**                **NAME:**  
  
                         **DIRECT DIAL:**  
  
**MESSAGE**        In re Application Of: **TEITELBAUM et al.**                    Examiner: **Unassigned**  
                         Application No.: **10/534,055**                    Art Unit: **Unassigned**  
                         Filed: **May 6, 2005**                    Docket No.: **64118.000192**  
                         Title: **TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS**  
                         **METHODS AND DEVICES**

The following documents are transmitted via facsimile in connection with the above-referenced patent application:

1. Renewed Petition Under 37 C.F.R. 1.47(a) (4 pgs.)
2. Declaration of Robert A. King, Esq., including Attachments 1-2 (12 pgs.)
3. Copies of executed Declarations (20 pgs.)

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT OPERATOR AT 404 • 888 • 4027.

**OPERATOR**

**DATE:** June 6, 2006  
**CLIENT/MATTER NO.:** 64118.000192

This communication is confidential and is intended to be privileged pursuant to the attorney-client privilege and the work-product doctrine. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.

RECEIVED  
CENTRAL FAX CENTER

AUG 18 2006

Patent  
Attorney Docket No. 64118.000192  
Customer No. 21967

**THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

TEITELBAUM *et al.*

Serial No.: 10/534,055

Filed: May 6, 2005

Title: TRANSPEDICULAR INTERVERTEBRAL )  
DISK ACCESS METHODS AND DEVICES )

)  
)  
) Group Art Unit: Unassigned

)  
) Examiner: Unassigned

)  
) Confirmation No. 2702

**RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)**

**MAIL STOP PCT**

Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.47(a) and M.P.E.P. § 409.03(a) and (d), Applicants hereby petition the Commissioner to accept its U.S. Application Serial No. 10/534,055 absent an Oath or Declaration signed by all named inventors. Joint inventors George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., and Michael R. Henson have signed Declarations.

Inventor Frank Nguyen is a nonsigning inventor, notwithstanding repeated and diligent efforts to obtain his signature by the entity to which an assignment of the application is owed, Medtronic Sofamor Danek, and by whom the inventor was employed at the time of invention. Medtronic Sofamor Danek owns SDGI Holdings, Inc. which is the holding company to which



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Application Serial No. 10/534,055  
Customer No. 21967

Medtronic Sofamor Danek's intellectual property is assigned. Mr. Nguyen was employed by Vertelink Corporation, which was acquired by Medtronic Sofamor Danek.

In support of this petition, Applicants have enclosed:

- (1) Declarations bearing the executed signatures of George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., and Michael R. Henson; and
- (2) A Declaration by registered patent attorney, Robert A. King, presenting facts relating to unsuccessful attempts to locate Mr. Nguyen and obtain his signature on a Declaration.

**(A) Declarations by the Joint Inventors**

Inventors George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., and Michael R. Henson have signed Declarations on their own behalf. MPEP 409.03(a)(A)(1). Because these inventors duly executed Declarations in support of this application, the Declaration is filed in the names of those inventors on behalf of the remaining nonsigning inventor and on behalf of the entity to whom all inventors owe a duty of assignment, Medtronic Sofamor Danek. See MPEP 409.03(a)(A)(2) and 37 C.F.R. 1.47(a).

**(B) Proof of Unavailability to Locate and Sign**

Applicants have enclosed the Declaration of Robert A. King, Esq. containing relevant facts from which Applicants reasonably conclude that: (1) Applicants have made *bona fide* attempts to locate and obtain the signature of the nonsigning inventor and (2) Applicants are

Attorney Docket No. 64118.000192  
Application Serial No. 10/534,055  
Customer No. 21967

unable to locate Frank Nguyen to sign a Declaration verifying his status as co-inventor of the subject application.

Applicants previously included as Attachment A to their Petition Under 37 C.F.R. § 1.47(a) filed on November 23, 2005, a copy of the declaration of Sabrina Chambers detailing relevant facts in connection with the same unavailable inventor in a related pending application, U.S. Patent Application Serial No. 10/999,216.

**(C) Last Known Addresses of Non-Signing Inventor**

Applicants were last aware of the following address for Frank Nguyen: 1995 E. Coalton Road, #77-203, Superior, CO 80027.

**(D) Facts Surrounding Unavailability to Sign**

As detailed in the accompanying materials, Applicants and the entity to whom a duty of assignment is owed have made repeated, ongoing and diligent attempts to obtain the papers for completion of this application.

Frank Nguyen is no longer employed by Medtronic Sofamor Danek. Despite repeated attempts, the nonsigning inventor has not responded with a signed Declaration, as detailed in the accompanying Declaration of Robert A. King. This was through no fault of the signing inventors or the entity to which a duty of assignment is owed.

Notwithstanding the unavailability of the nonsigning inventor to sign a Declaration despite diligent attempts to obtain the same, Applicants respectfully request the Commissioner to

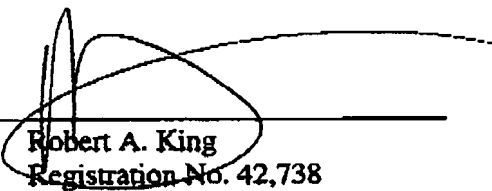
Attorney Docket No. 64118.000192  
Application Serial No. 10/534,055  
Customer No. 21967

grant this petition, and to accept U.S. Application No. 10/534,055 for the prosecution in due course to which Medtronic Sofamor Danek and Applicants George P. Teitelbaum, Samuel M. Shaolian, Thanh V. Nguyen, To V. Pham, Vincent Divino, Jr., and Michael R. Henson are entitled.

Applicants believe that no additional fees are due for filing this petition. In the event any additional fees are required, the Commissioner is authorized to charge all required fees, under 37 C.F.R. §1.17, or all required extension of time fees, to the undersigned's deposit account No. 50-0206.

Respectfully submitted,  
HUNTON & WILLIAMS

By: \_\_\_\_\_

  
Robert A. King  
Registration No. 42,738

Hunton & Williams LLP  
1900 K Street, N.W., Suite 1200  
Washington, D.C. 20006-1109  
Telephone (202) 955-1950  
Facsimile (202) 778-2201

Dated: June 6, 2006

AUG 18 2006 Attorney Docket No. 64118.000192  
Customer No. 21967

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

TEITELBAUM et al.

Serial No.: 10/534,055

Filed: May 6, 2005

Title: TRANSPEDICULAR INTERVERTEBRAL )  
DISK ACCESS METHODS AND DEVICES )

) Group Art Unit: Unassigned

) Examiner: Unassigned

) Confirmation No. 2702

DECLARATION OF ROBERT A. KING, ESQ.

I, Robert A. King, state as follows:

1. I am a registered patent attorney (Reg. No. 42,738) employed by the law firm of Hunton & Williams LLP, legal representative of Medtronic Sofamor Danek for this matter. I submit this Declaration in support of the Renewed Petition under 37 C.F.R. 1.47(a) with respect to the above-referenced patent application.

2. A Notification of Missing Requirements under 35 U.S.C. 371 was mailed on July 25, 2005, from the U.S. Patent and Trademark Office with regard to the above-referenced patent application. In order to respond fully to the Notification of Missing Requirements, a signed oath or declaration from all the inventors was requested.

3. In a related patent application (U.S. Patent Application Serial No. 10/999,216) with the same inventive entity, Frank Nguyen was also a non-signing inventor. Sabrina Chambers of Medtronic Sofamor Danek executed a declaration in support of Mr. Nguyen's unavailability to sign. A copy of Ms. Chambers' declaration along with supporting Exhibits A-J were attached as Attachment A to Applicants' Petition Under 37 C.F.R. § 1.47(a), filed

Attorney Docket No. 64118.000192  
Customer No. 21967

November 23, 2005. The Rule 47 petition for Frank Nguyen in U.S. Patent Application Serial No. 10/999,216 was subsequently granted by the U.S. Patent and Trademark Office on September 13, 2005.

4. On October 25, 2005, Mr. Yisun Song, also a registered patent attorney employed by Hunton & Williams LLP, sent a letter to Frank Nguyen, a copy of which was attached to Applicants' November 23, 2005 Petition as Attachment B. In that letter, Mr. Song requested Mr. Nguyen to sign the declaration and Power of Attorney. A certified mail receipt for this letter was also attached as Attachment C. In response to the letter dated October 25, 2005, and the efforts related to obtaining Mr. Nguyen's signature for U.S. Application No. 10/534,055, we have not received a signed declaration from Mr. Nguyen. However, Mr. Nguyen's signature on the signed certified mail postcard clearly established that Superior, Colorado, was his last known mailing address.

5. On May 9, 2006, the U.S. Patent and Trademark Office mailed a Decision on Petition Under 37 CFR 1.47(a). The Office noted that a renewed petition should be filed that clearly set out the last known address for Frank Nguyen and clearly indicated whether Mr. Nguyen could be located at his last known address.

6. On May 18, 2006, a letter was mailed to Frank Nguyen via U.S. Certified Mail at his last known address of 1995 E. Coalton Road, #77, in Superior, Colorado, requesting that Mr. Nguyen execute and return a copy of the Declaration. A copy of the letter is included as Attachment 1. Pursuant to Section 409.03(d) of the MPEP, the letter clearly set out: 1) that Mr. Nguyen was requested to sign and return the Declaration, 2) the purpose for his doing so, and 3) that his failure to return a signed declaration represented his refusal to do so. Further, a

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Customer No. 21967

copy of the subject application to which the declaration pertains was included with the letter and Declaration.

7. The U.S. Postal Service subsequently returned the package mailed to Mr. Nguyen. The front of the package was stamped "NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD." A copy of the front of the package is attached as Attachment 2.

8. I further hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DECLARANT:

  
\_\_\_\_\_  
Robert A. King

Date:

6/6/2006

Aug-18-2008 12:52pm From-

T-450 P.018/046 F-924

Attorney Docket No. 64118.000192  
Customer No. 21967

**ATTACHMENT 1**

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CENTRAL FAX CENTER

AUG 18 2006

**HUNTON &  
WILLIAMS**

HUNTON & WILLIAMS LLP  
BANK OF AMERICA PLAZA  
SUITE 4100  
ATLANTA, GEORGIA 30308-2216

TEL 404-888-4000  
FAX 404-888-4190

ROBERT A. KING  
DIRECT DIAL: 404-888-4136  
EMAIL: rking@hunton.com

FILE NO. 64118.000192

May 18, 2006

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Frank Nguyen  
1995 E. Coalton Road, #77  
Superior, CO 80027

Re: U.S. Patent Application No. 10/534,055  
National Phase of PCT/US03/09285  
Entitled: "Transpedicular Intervertebral Disk Access Methods and Devices"

Dear Mr. Nguyen:

We are counsel for Medtronic Sofamor Danek. We write to ask that you execute the enclosed Declaration by signing and dating it in the spaces indicated, and that you return it to us in the envelope provided. Your signature on the Declaration verifies that you are a co-inventor in the above-referenced patent application, which was filed with the Patent Office on May 6, 2005. Further, your signature acknowledges that you are aware of your responsibility before the Patent Office to provide a copy of any information of which you become aware that may be considered relevant to the patentability of the invention. For your convenience, we enclose another copy of the application. We will need to file a copy of the executed Declaration with the Patent Office as soon as possible.

Your signature on the attached U.S. Postal Service return receipt postcard verifies that this letter has been forwarded to your correct mailing address. Therefore, your failure to sign, date, and return the Declaration indicates that you have no intention of doing so, and we will make no further attempts to contact you regarding this matter.

If you have any questions related to this matter, please feel free to contact us at your convenience.

Very truly yours,

  
Robert A. King

RAK/sm

ATLANTA AUSTIN BANGKOK BRUSSELS CHARLOTTE DALLAS HONG KONG KNOXVILLE



Attorney Docket No.: 64118.000192

**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES**

the specification of which:

☐ is attached hereto.

☒ was filed on: May 6, 2005

as United States Application No.: 10/534,055

or PCT International Application No.: \_\_\_\_\_

and was amended on: \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

**Prior Foreign Application(s)**

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below by checking the box, any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

**Prior Provisional Application(s)**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)
60/424,942	8, November, 2002

**Prior United States Application(s)**

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the Hunton & Williams LLP attorneys and agents associated with:

**CUSTOMER NUMBER  
21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER  
21967**

corresponding to the law firm of Hunton & Williams LLP; Intellectual Property Department; 1900 K Street, N.W.; Suite 1200; Washington, DC 20006-1109; telephone number (202) 955-1500; facsimile number (202) 778-2201.

HUNTON & WILLIAMS LLP  
Intellectual Property Department  
1900 K Street, N.W.  
Suite 1200

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

**NAME OF SOLE OR FIRST INVENTOR:**☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) **George P.** Family Name or Surname **TEITELBAUM**  
Citizenship: **US**  
Residence: **Santa Monica, CA**  
Mailing Address: **325 16<sup>th</sup> Street, Santa Monica, CA 90402-2217**

**NAME OF SECOND INVENTOR:**☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) **Samuel M.** Family Name or Surname **SHAOLIAN**  
Citizenship: **US**  
Residence: **Newport Beach, CA**  
Mailing Address: **2315 Arbutus Street, Newport Beach, CA 92660**

**NAME OF THIRD INVENTOR:**☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) **Thanh Van** Family Name or Surname **NGUYEN**  
Citizenship: **US**  
Residence: **Irvine, CA**  
Mailing Address: **4752 Roxbury Drive, Irvine, CA 92604**

**NAME OF FOURTH INVENTOR:**☐ A petition has been filed for this unsigned inventor

✓ Signature \_\_\_\_\_ Date \_\_\_\_\_ ✓  
Given Name (first and middle (if any)) **Frank** Family Name or Surname **NGUYEN**  
Citizenship: **US**  
Residence: **Superior, CO**  
Mailing Address: **1985 E. Coalton Road, #77-203, Superior, CO 80027**

HUNTON & WILLIAMS LLP  
Intellectual Property Department  
1900 K Street, N.W.  
Suite 1200  
Washington, DC 20006-1109

**NAME OF FIFTH INVENTOR:**☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name \_\_\_\_\_ Family Name  
(first and middle (if any)) To V. or Surname PHAM  
Citizenship: US  
Residence: Trubuco Canyon, CA  
Mailing Address: 28422 Pueblo Drive, Trubuco Canyon, CA 92679

**NAME OF SIXTH INVENTOR:**☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name \_\_\_\_\_ Family Name  
(first and middle (if any)) Vincent or Surname DIVINO, Jr.  
Citizenship: US  
Residence: Mission Viejo, CA  
Mailing Address: 24436 Muela, Mission Viejo, CA 92692

**NAME OF SEVENTH INVENTOR:**☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name \_\_\_\_\_ Family Name  
(first and middle (if any)) Michael R. or Surname HENSON  
Citizenship: US  
Residence: Coto de Casa, CA  
Mailing Address: 2 Via Presea, Coto de Casa, CA 92679

Aug-18-2006 12:53pm From-

T-450 P.022/046 F-824

Attorney Docket No. 64118.000192  
Customer No. 21967

**ATTACHMENT 2**

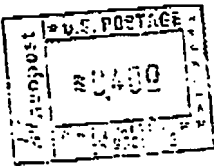
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T-450 P.023/046 F-924

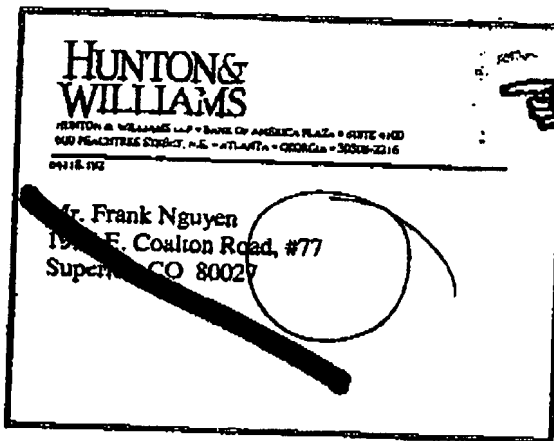


7000 3210 0000 1100 0000

RELATE  
65-10-06  
RA



IAS  
RIS



NOT DELIVERABLE  
AS ADDRESSEE  
UNABLE TO FORWARD

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Mr. Frank Nguyen  
1995E. Coalton Road, #77  
Superior, CO 80027

## COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X

☐ Agent☐ AddresseeD. Is delivery address different from item 1?  
If YES, enter delivery address below:☐ Yes☐ No

## 3. Special Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

## 4. Restricted Delivery? (Extra Fee)

☐ Yes

## 2. Article Number (Copy from service label)

7005 1161 0001 1620 3595 595

PS Form 3811, July 1999

102595-00-10-0952

Attorney Docket No.: 64118.000192

**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES**

the specification of which: ☐ is attached hereto.

☒ was filed on: May 6, 2005

as United States Application No.: 10/534,055

or PCT International Application No.: \_\_\_\_\_

and was amended on: \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

**Prior Foreign Application(s)**

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below by checking the box, any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>



Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

**Prior Provisional Application(s)**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)
60/424,542	8 November, 2002

**Prior United States Application(s)**

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the Hunton & Williams LLP attorneys and agents associated with:

**CUSTOMER NUMBER**  
**21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER**  
**21967**

corresponding to the law firm of Hunton & Williams LLP; Intellectual Property Department; 1900 K Street, N.W.; Suite 1200; Washington, DC 20006-1109; telephone number (202) 955-1500; facsimile number (202) 778-2201.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment or both under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

NAME OF SOLE OR FIRST INVENTOR: ☐ A petition has been filed for this unsigned inventor

Signature

Date

Given Name

Family Name  
or Surname

(first and middle (if any)) George P.

TEITELBAUM

Citizenship: US

Residence: Santa Monica, CA

Mailing Address: 325 16<sup>th</sup> Street, Santa Monica, CA 90402-2217

NAME OF SECOND INVENTOR: ☐ A petition has been filed for this unsigned inventor

Signature

Date

Given Name

Family Name  
or Surname

(first and middle (if any)) Samuel M.

SHAOLIAN

Citizenship: US

Residence: Newport Beach, CA

Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660

NAME OF THIRD INVENTOR: ☐ A petition has been filed for this unsigned inventor

Signature

Date

Given Name

Family Name  
or Surname

(first and middle (if any)) Thanh Van

NGUYEN

Citizenship: US

Residence: Irvine, CA

Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

HUNTON & WILLIAMS LLP  
Intellectual Property Department  
1900 K Street, N.W.  
Suite 1200

**NAME OF FIFTH INVENTOR:**☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name \_\_\_\_\_ Family Name  
(first and middle (if any)) **To V.** or Surname **PHAM**  
Citizenship: **US**  
Residence: **Trabuco Canyon, CA**  
Mailing Address: **28422 Pueblo Drive, Trabuco Canyon, CA 92679**

**NAME OF SIXTH INVENTOR:**☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name \_\_\_\_\_ Family Name  
(first and middle (if any)) **Vincen** or Surname **DIVINO, Jr.**  
Citizenship: **US**  
Residence: **Mission Viejo, CA**  
Mailing Address: **24436 Muela, Mission Viejo, CA 92682**

**NAME OF SEVENTH INVENTOR:**☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name \_\_\_\_\_ Family Name  
(first and middle (if any)) **Michael R.** or Surname **HENSON**  
Citizenship: **US**  
Residence: **Coto de Casa, CA**  
Mailing Address: **2 Via Presea, Coto de Casa, CA 92679**

HUNTON & WILLIAMS LLP  
Intellectual Property Department  
1900 K Street, N.W.  
Suite 1200  
Washington, DC 20006-1106  
(202) 686-1800 (telephone); (202) 776-2761 (facsimile)

Page 4

Attorney Docket No.: 64118.000192

**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES**

the specification of which: ☐ is attached hereto.  
☒ was filed on: May 6, 2005  
 as United States Application No.: 10/534,055  
 or PCT International Application No.: \_\_\_\_\_  
 and was amended on: \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

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Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

**Prior Provisional Application(s)**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)
60/424,542	8, November, 2002

**Prior United States Application(s)**

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the Hunton & Williams LLP attorneys and agents associated with:

**CUSTOMER NUMBER**  
**21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER**  
**21967**

Page 2

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

### NAME OF SOLE OR FIRST INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Given Name (first and middle (if any)) George F. Family Name or Surname TETELBAUM.  
 Citizenship: US  
 Residence: Santa Monica, CA  
 Mailing Address: 325 16<sup>th</sup> Street, Santa Monica, CA 90402-2217

### NAME OF SECOND INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date 10-17-05  
 Given Name (first and middle (if any)) Samuel M. Family Name or Surname SHAOLIAN  
 Citizenship: US  
 Residence: Newport Beach, CA  
 Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660

### NAME OF THIRD INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date 10-19-05  
 Given Name (first and middle (if any)) Thanh Van Family Name or Surname NGUYEN  
 Citizenship: US  
 Residence: Irvine, CA  
 Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

### NAME OF FOURTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Given Name (first and middle (if any)) Frank Family Name or Surname NGUYEN  
 Citizenship: US  
 Residence: Superior, CO  
 Mailing Address: 1895 E. Coalton Road, #77-203, Superior, CO 80027

HURTON & WILLIAMS LLP  
 Intellectual Property Department  
 1900 A Street, N.W.  
 Suite 1200  
 Washington, DC 20005-4709  
 (202) 566-1600 (telexphone); (202) 779-2291 (facsimile)

Page 3

## NAME OF FIFTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_

Date \_\_\_\_\_

Given Name

(first and middle (if any)) To V.

Family Name  
or Surname

PHAM

Citizenship: US

Residence: Trabuco Canyon, CA

Mailing Address: 28422 Pueblo Drive, Trabuco Canyon, CA 92679

## NAME OF SIXTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_

Date \_\_\_\_\_

Given Name

(first and middle (if any)) Vincent

Family Name  
or Surname

DIVINO, Jr.

Citizenship: US

Residence: Mission Viejo, CA

Mailing Address: 24438 Muela, Mission Viejo, CA 92692

## NAME OF SEVENTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_

Date \_\_\_\_\_

Given Name

(first and middle (if any)) Michael R.

Family Name  
or Surname

HENSON

Citizenship: US

Residence: Coto de Casa, CA

Mailing Address: 2 Via Presa, Coto de Casa, CA 92679

Attorney Docket No.: 64118.000192

**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES**

the specification of which: ☐ is attached hereto.

☒ was filed on: May 6, 2005

as United States Application No.: 10/534,055

or PCT International Application No.: \_\_\_\_\_

and was amended on: \_\_\_\_\_ (if applicable).

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**Prior Foreign Application(s)**

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below by checking the box, any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>



Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

**Prior Provisional Application(s)**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)
60/424,542	8, November, 2002

**Prior United States Application(s)**

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

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**CUSTOMER NUMBER**  
**21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER**  
**21967**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

**NAME OF SOLE OR FIRST INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Given Name (first and middle (if any)) **George F.** Family Name or Surname **TEITELBAUM.**  
 Citizenship: **US**  
 Residence: **Santa Monica, CA**  
 Mailing Address: **525 16<sup>th</sup> Street, Santa Monica, CA 90402-2217**

**NAME OF SECOND INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Given Name (first and middle (if any)) **Samuel M.** Family Name or Surname **SHAOLIAN**  
 Citizenship: **US**  
 Residence: **Newport Beach, CA**  
 Mailing Address: **2315 Arbutus Street, Newport Beach, CA 92660**

**NAME OF THIRD INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Given Name (first and middle (if any)) **Thanh Van** Family Name or Surname **NGUYEN**  
 Citizenship: **US**  
 Residence: **Irvine, CA**  
 Mailing Address: **4752 Roxbury Drive, Irvine, CA 92604**

**NAME OF FOURTH INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Given Name (first and middle (if any)) **Frank** Family Name or Surname **NGUYEN**  
 Citizenship: **US**  
 Residence: **Superior, CO**  
 Mailing Address: **1995 E. Coalton Road, #77-203, Superior, CO 80027**

FRANTON & WILSON LLP  
 Intellectual Property Department  
 1800 K Street, N.W.  
 Suite 1200  
 Washington, DC 20005-1908  
 (202) 638-1980 (telephone); (202) 778-2201 (telex/fax)

Page 3

## NAME OF FIFTH INVENTOR:

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Signature

Date

10-18-05

Given Name

Family Name  
or Surname

(first and middle (if any)) To V.

PHAM

Citizenship:

US

Residence:

Trabuco Canyon, CA

Mailing Address:

28422 Pueblo Drive, Trabuco Canyon, CA 92679

## NAME OF SIXTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature

Date

Given Name

Family Name  
or Surname

(first and middle (if any)) Vincent

DIVINO, J.

Citizenship:

US

Residence:

Mission Viejo, CA

Mailing Address:

24436 Muela, Mission Viejo, CA 92682

## NAME OF SEVENTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature

Date

Given Name

Family Name  
or Surname

(first and middle (if any)) Michael R.

HENSON

Citizenship:

US

Residence:

Coto de Casa, CA

Mailing Address:

2 Via Presea, Coto de Casa, CA 92679

HAMILTON & WILLIAMS LLP  
Intellectual Property Department  
1800 K Street, N.W.  
Suite 1300  
Washington, DC 20006-1106  
(202) 850-1800 (telexphone); (202) 778-2201 (facsimile)

Page 4

Attorney Docket No.: 64118.000192

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and was amended on: \_\_\_\_\_

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PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

**Prior Provisional Application(s)**

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Application Number	Date of Filing (day, month, year)
60/424,942	8 November, 2002

**Prior United States Application(s)**

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 Citizenship: US  
 Residence: Santa Monica, CA  
 Mailing Address: 325 16<sup>th</sup> Street, Santa Monica, CA 90402-2217

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☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Given Name (first and middle (if any)) Samuel M. Family Name or Surname SHAOLIAN  
 Citizenship: US  
 Residence: Newport Beach, CA  
 Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92860

**NAME OF THIRD INVENTOR:**

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Given Name (first and middle (if any)) Thanh Van Family Name or Surname NGUYEN  
 Citizenship: US  
 Residence: Irvine, CA  
 Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

**NAME OF FOURTH INVENTOR:**

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 Given Name (first and middle (if any)) Frank Family Name or Surname NGUYEN  
 Citizenship: US  
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 Mailing Address: 1995 E. Coalton Road, #77-203, Superior, CO 80027

HUNTON & WILLIAMS LLP  
 Intellectual Property Department  
 1800 K Street, N.W.  
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 Washington, DC 20005-1109  
 (202) 955-1600 (telexphone); (202) 778-2291 (facsimile)

Page 3

## NAME OF FIFTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) To V. Family Name or Surname PHAM  
Citizenship: US  
Residence: Trubuco Canyon, CA  
Mailing Address: 28422 Pueblo Drive, Trubuco Canyon, CA 92679

## NAME OF SIXTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature [Signature] Date 12/18/05  
Given Name (first and middle (if any)) Vincent Family Name or Surname DIVINO, Jr.  
Citizenship: US  
Residence: Mission Viejo, CA  
Mailing Address: 24458 Muela, Mission Viejo, CA 92662

## NAME OF SEVENTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature \_\_\_\_\_ Date \_\_\_\_\_  
Given Name (first and middle (if any)) Michael R. Family Name or Surname HENSON  
Citizenship: US  
Residence: Coto de Casa, CA  
Mailing Address: 2 Via Presea, Coto de Casa, CA 92679

**01 AUG 2006**

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 HUNTON & WILLIAMS LLP  
 Intellectual Property Department  
 1900 K Street, N.W., Suite 1200  
 Washington, DC 20006-1109

64118-192

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AUG 09 2006

Hunton &amp; Williams LLP

7047

**DOCKETED**

In re Application of  
 TEITELBAUM *et al*  
 U.S. Application No.: 10/534,055  
 PCT No.: PCT/US03/09285  
 Int. Filing Date: 25 March 2003  
 Priority Date: None  
 Docket No.: 64118.000192  
 For: TRANSPEDICULAR  
 INTERVERTEBRAL DISK ACCESS  
 METHODS AND DEVICES

**DECISION ON  
 RENEWED PETITION  
 UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Renewed Petition under 37 CFR §1.47(a)" filed 06 June 2006.

### BACKGROUND

On 09 May 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. There was conflicting information regarding whether the nonsigning inventor could be located. Moreover, the declaration provided was not in compliance with 37 CFR 1.497. Applicants were given two months to respond.

On 06 June 2006, applicants submitted via facsimile a renewed petition which was accompanied by, *inter alia*, a declaration of Robert A. King ("Decl."); a copy of a letter dated 18 May 2006 with copies of the postal receipts; and a declaration signed by six of the seven named inventors.

### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the nonsigning joint inventor. Petitioners satisfied item (1) with the initial petition and items (3) and (4) with the renewed petition.

Petitioners declare that the last known address of Mr. Frank Nguyen is:



10/534,055

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1995 E. Coalton Road  
Superior, CO 80027

Regarding item (4), the 37 CFR 1.47(a) applicant submitted complete declarations signed by six of the seven joint inventors on behalf of the nonsigning inventor. All of the inventor's names, residences, post office addresses and citizenship are typed on the declaration. This declaration satisfies the requirements of 37 CFR 1.497(a) and (b) and section 409.03(a) of the MPEP.

However, petitioners have not yet satisfied item (2) of 37 CFR 1.47(a).

Petitioners submitted evidence filed in an earlier U.S. application (No. 10/999,216) showing that a diligent effort was made to locate Mr. Nguyen. This search was conducted by Sabrina Chambers prior to 15 August 2005.<sup>1</sup>

In the renewed petition, the 37 CFR 1.47(a) applicants submitted a declaration of Robert A. King who states that the certified mail postcard signed as received by Mr. Nguyen on 01 November 2005 clearly established that Superior, Colorado, was his last known mailing address. Decl. at ¶ 4. Petitioners mailed a certified letter on 18 May 2006 to this address along with a copy of the application and a declaration requesting that Mr. Nguyen respond. The letter was returned as undeliverable. Petitioners submitted no other evidence on this matter.

First, the showing that a diligent effort was made to locate Mr. Nguyen submitted in U.S. application No. 10/999,216 on 16 August 2005 is no longer relevant as there is credible evidence to suggest that Mr. Nguyen was living in Louisville, Colorado on 01 November 2005. Since the letter sent to the last known address of Mr. Nguyen on 18 May 2006 was returned as undeliverable, it is not clear whether Mr. Nguyen is aware of the subject application. Petitioners must attempt to determine where Mr. Nguyen now resides. \*

If petitioners conclude that Mr. Nguyen still lives at the Louisville, Colorado address but refuses to accept delivery of mail, **this conduct would constitute a refusal to cooperate.** If petitioners are unable to determine where Mr. Nguyen lives, a **statement of facts should be submitted that fully describes the steps taken to locate the whereabouts of the nonsigning inventor.** Copies of documentary evidence such as internet and telephone searches that support a finding that the nonsigning inventor could not be found or reached should be made part of the

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<sup>1</sup> The declaration of Ms. Chambers filed with the petition in U.S. Application 10/999,216 was dated 15 August 2005.

10/511,565

3 3

statement of facts. See MPEP § 409.03(d).

For the reasons noted above, item (2) of 37 CFR 1.47(a) is not yet satisfied.

**CONCLUSION**

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



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PAD-TMM-RAK

U.S. APPLICATION NUMBER NO. 10/534,055	FIRST NAMED APPLICANT George P Teitelbaum	ATTY. DOCKET NO. 64118.000192
INTERNATIONAL APPLICATION NO. PCT/US03/09285		
I.A. FILING DATE 03/25/2003		PRIORITY DATE

21967  
HUNTON & WILLIAMS LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
1900 K STREET, N.W.  
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CONFIRMATION NO. 2702

371  
ABANDONMENT/TERMINATION  
LETTER

OC000000019520751

Date Mailed: 08/07/2006

7047

## NOTIFICATION OF ABANDONMENT

ADJR  
8-9-06  
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The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Failure to respond to Petition sent 5/9/01

ABANDON???

Therefore, the above identified application fails 1.495, and is ABANDONED AS TO THE UNIT

d 37 CFR

Telephone: (703) 308-9140 EXT 204

## PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EQ/909 (371 Abandonment Notice)



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10/534,055

*Transpedicular intervertebral disk access n devices*

Date	Transaction Description
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**Transaction History**

Date	Transaction Description
08-05-2006	Abandonment -- Inc. Application under Rule 53(b) - f
08-01-2006	Petition Decision - Dismissed
06-06-2006	Petition Entered
05-10-2006	Petition Decision - Dismissed
11-23-2005	Petition Entered
07-25-2005	Notice of DO/EO Missing Requirements Mailed
05-06-2005	Initial Exam Team nn

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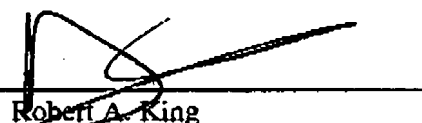
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Attorney Docket No. 64118.000192  
Application Serial No. 10/534,055  
Customer No. 21967

C.F.R. §1.17, or all required extension of time fees, to the undersigned's deposit account No. 50-0206.

Respectfully submitted,  
HUNTON & WILLIAMS

By: \_\_\_\_\_

  
Robert A. King  
Registration No. 42,738

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1900 K Street, N.W., Suite 1200  
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Facsimile (202) 778-2201

Dated: August 18, 2006

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571-273-8300

FAX NO.:  
PHONE NO.:  
PAGES (INCLUDING COVER): 46  
ORIGINAL TO FOLLOW IN MAIL: ☐ Yes ☒ No

**FROM** NAME: Robert A. King, Esq.  
DIRECT DIAL: 404-888-4136

**MESSAGE** In re Application Of: **TEITELBAUM et al.** Examiner: **Unassigned**  
Application No.: **10/534,055** Art Unit: **Unassigned**  
Filed: **May 6, 2005** Docket No.: **64118.000192**  
Title: **TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS  
METHODS AND DEVICES**

In accordance with 37 CFR 1.8, I hereby certify that the attached

1. Petition to Revive Unintentional Abandonment (2 pages)  
Copies of:
2. Decision on Petition Under 37 C.F.R. 1.47(a) (3 pages);
3. Receipt of Petition filed via Facsimile and copies of Facsimiled (3 pages);
4. Renewed Petition Under 37 C.F.R. § 1.47(a) dated 6/9/06 and

Central fax received 1 page  
(missing 45 pages)